

90/14


07.11.2016

Counsel for the appellant and Mr. Muhammad Zubair, Senior Government Pleader alongwith Mr. Fayazud Din, ADO for respondents present. Arguments heard. Record perused.

Vide our detailed judgment of to-day placed in connected service appeal No. 51/2014, tilted "Khaista Rahman versus District Education Officer (Male) Dir. Lower and 3 others", this appeal is also accepted as per detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.



Member



Chairman
Camp court, Swat

ANNOUNCED
07.11.2016

13.7.2016

Counsel for the appellant and Mr. Fayaz Din, ADO and Muhammad Irshad, SO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant requested for adjournment. To come up for rejoinder and final hearing on 07.11.2016 before D.B at camp court, Swat.

Member

Chairman
Camp Court, Swat

~~13.7.2016~~


~~Counsel for the appellant and Mr. Fayaz Din, ADO and Muhammad Irshad, SO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant requested for adjournment. To come up for rejoinder and final hearing on 07.11.2016 before D.B at camp court, Swat.~~

~~Member~~

~~Chairman
Camp Court, Swat~~

08.07.2015

Counsel for the appellant is not in attendance due to non-availability of D.B. Mr. Muhammad Zubair, Sr.G.P for respondents present. Adjourned for final hearing before D.B to 8.9.2015 at camp court Swat.


Chairman
Camp Court Swat


8.9.2015

None present for appellant. Mr. Fayaz-ud-Din, ADO
alongwith Mr. Muhammad Zubair, Sr.G.P for respondents present.
Due to non-availability of D.B, case is adjourned to 14.1.2016
for final hearing at Camp Court Swat.


Chairman
Camp Court Swat

14.01.2016

Agent of counsel for the appellant. Mr. Muhammad Idrees, Assistant alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Due to non-availability of D.B, appeal to come up for final hearing before D.B on 12.7.2016 at Camp Court Swat.


Chairman
Camp Court Swat

19.1.2015

Mr. Rahmanullah, Clerk of counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Mr. Muhammad Adeel Butt, AAG with Mosam Khan, AD, Khursheed Khan, SO and Muhammad Irshad, Supdt. for the respondents present. Respondents need time to submit written reply, which according to representatives of the respondents is in process. To come up for written reply on 26.3.2015.


MEMBER

26.03.2015

Counsel for the appellant and Mr. Fayaz-ud-Din, ADO alongwith Addl: A.G for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing. The appeal pertains to territorial limits of Malakand Division and as such to be heard at Camp Court Swat on 6.5.2015.


Chairman

6.5.2015

Counsel for the appellant and Mr. Muhammad Zubair, Sr.G.P for respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and final hearing before D.B on 8.7.2015 at Camp Court Swat.


Chairman
Camp Court Swat

Appeal No. 90/2014
Mr. Ziaullah Khan

6. 12.08.2014

Counsel for the appellant and Mr. Fayaz-Ud-Din, ADEO with Mr. Ziaullah, GP for the respondents present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has prayed for grant of arrears and seniority from the dated of decision Peshawar High Court, Peshawar i.e 28.06.2012. Perusal of the case file reveals that as per judgment of Peshawar High Court dated 28.06.2012 Writ Petition of the appellant was allowed and respondents were directed to appoint the appellant against the post of Drawing Master. Against the said order respondents filed CPLA, however the same was dismissed vide order dated 21.06.2013. Consequent thereof, the appellant was appointed vide office order dated 16.12.2013 but no back benefits were given to him. Appellant filed departmental appeal/application for grant of arrears and seniority from the date of decision of Peshawar High Court, Peshawar but the same was not respondent within the statutory period of 90 days, hence the present appeal on 13.01.2014.

Since the matter pertains to terms and conditions of service of the appellant, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 13.11.2014.

7. 12.08.2014

This case be put before the Final Bench II for further proceedings.

Member

Chairman

13.11.2014

Junior to counsel for the appellant and Mr. Muhammad Jan, GP with Javed Ahmad, Supdt. For the respondents No. 1 to 3 present. None is available on behalf of private respondent No. 4. The Tribunal is incomplete. To come up for the same on 19.1.2015.

READER

3,
10.03.2014

Counsel for the appellant present. Preliminary arguments to some extent heard. Pre-admission notice be issued to the GP to assist the Tribunal for preliminary hearing on 30.04.2014.


Member

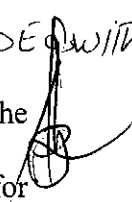

4,
30.04.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. The learned Government Pleader requested for time to contact the respondents for production of complete record. Request accepted. To come up for preliminary hearing on 09.06.2014.


Member

5,
09.06.2014


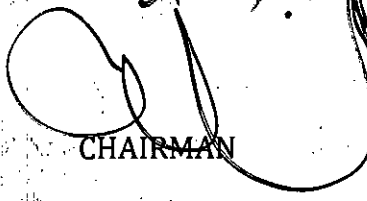
Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 12.08.2014.

Mr. Fayaz-ud-Din ADEQ WITH


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 90/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17/01/2014	<p>The appeal of Mr. Gul Rasool Khan presented today by Mr. Rehmanullah Sahah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	22-1-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-3-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

S. Appeal No. 90 /2014

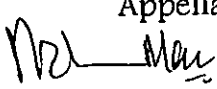

GUL RASOOL KHAN S/O ABDUL TAWAB KHAN _____ APPELLANT
VERSUS

D E O (MALE) DIR LOWER AND OTHERS _____ RESPONDENTS

INDEX OF DOCUMENTS

S.NO	DOCUMENTS	ANNEXURE	PAGES
1	Grounds of Appeal & Affidavit		01 - 06
2	Addresses of the Parties		07
3	Appointment Order	A	08 - 09
4	Copy of Judgment of Hon'ble Peshawar High Court	B	10 - 16
5	Copy of the Order of the worthy Supreme Court	C	17 - 18
6	Copy of the order of the DEO Distt Upper Dir	D	19
7	Departmental Representation/ Appeal	E	20
8	Copy of Pay Slip/ Payroll	F	21
	Wakalatnama		

Through.

Appellant
 
Rehman Ullah Shah & Ibrahim Shah
MA, LLM
Advocates

Ibn e Abdullah Law Associates
11 Azam Tower University Road, Peshawar
Phone & Fax # 091- 570 2021
www.ibneabdullah.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 90 /2014

GUL RASOOL KHAN S/O ABDUL TAWAB KHAN
DM, GHS, BAGH, DISTRICT BUNER

17-1-2014

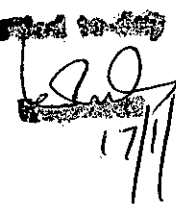
APPELLANT

VERSUS

1. DISTRICT EDUCATION OFFICER (MALE) BUNER
2. DISTRICT COORDINATION OFFICER, BUNER
3. DIRECTOR (SCHOOL & LITERACY) KHYBER PAKHTUNKHWA, PESHAWAR
4. SECRETARY FINANCE, GOVT OF KHYBER PAKHTUNKHWA, PESHAWAR

RESPONDENTS

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for grant of Arrears and Seniority to the appellant from the date of application i.e. 22/08/2007 for the post or alternatively, from the date of decision of the Hon'ble Peshawar High Court, Peshawar dated June 28, 2012 till June 19, 2013


17/1/2014
Respectfully submitted as under.

Brief facts of the case are as follows.

1. That the appellant got appointed with the respondents as DM, BPS-15 vide office order dated 20.06.2013.
(Appointment order is appended herewith as Annexure "A").
2. The appointment of the appellant was the result of the Writ Petition No. 2093/ 2007 titled "Khaista Rehman and Others Vs EDO & Others where the Divisional Bench of Hon'ble Peshawar High Court, Dar Ul - Qaza at

Swat by allowing the writ Petition directed to Respondents to appoint the petitioner against the said post positively.

{Copy of the Judgment of the Hon'ble Bench is annex "B"}

3. That Respondents, feeling aggrieved from the Judgment of the Hon'ble Bench, challenged the same before the worthy Supreme Court. Upon hearing on June 21, 2013, the Hon'ble Supreme Court dismissed the appeals and directed the present Respondents to produce appointment orders of the appellant before the august Court. Hence respondents as per direction of the worthy Supreme Court, issued appointment order to appellant.
{Copy of the Order of the worthy Supreme Court is annexed as "C"}
4. That some of the appellants in the same Writ petitions were considered as appointed from the date of decision of Hon'ble High Court i.e. June 28, 2012 and have been given back benefits and seniority from the aforementioned date.
{Copy of the order of the DEO Distt Upper Dir is annexed as "D"}
5. That the appellant made representation/application to the District Education Officer (Male) on September 20, 2013, for the award of Arrears and Seniority with effect from the date of application/ dated of decision of the Hon'ble Peshawar High Court, but no warn shoulder has been given to the representation of the appellant.
{Copy of the Representation is annexed as "E"}
6. That appellant has been ignored since June 2012 and no Arrears and Seniority has been given to him till date.
{Copy of payroll is annexed as "F"}
7. That the appellant time and again approached Respondent No. 1 for consideration of the departmental representation/ appeal, but the same has not been decided/ considered within the statutory period but till date no positive response is offered by the respondents.
8. That the appellant approaches this Honourable Tribunal for redress, inter-alia on the following:

GROUND.



- A. That the appellant is entitled to be considered for arrears and seniority from the date of his application/ date of decision as deem appropriate by this Hon'ble Tribunal, and as has been held in many cases by this Hon'ble Tribunal and Superior Courts in same like appeals.
- B. That numerous teachers in the respondent- department similarly placed have been granted Arrears and Seniority from the date of decision of Writ i.e. June 28, 2012. Hence, the appellant is also entitled to a similar treatment without being discriminated under the law.
- C. That negligence lies on the part of Respondents and not on the part of the appellant. The appellant was ready to join the duty from the date when writ was allowed, but respondents avoided to issues and assign duties to appellant. Hence appellant may not be panelized for the negligent acts of the Respondents.
- D. That since appellant was kept deprived of the service inspite of their entitlement by the illegal act of respondents. It is a settled law that grant of back benefits is a Rule and refusal is an exception.
- E. That the appellant's case for the subject matter has been pending with the department since long and the respondents do strive to protract the same for no valid reason but to vex the appellant, hence, the indulgence of this Tribunal is need of the situation to curtail the agony of the appellant.
- F. That the respondents are following the principle of nepotism and favoritism which is clear violation of Article 4 and 25 of the Constitution of Islamic republic of Pakistan.
- G. That the appellant reserves his right to urge further grounds with leave of the tribunal at the time of arguments or when the stance of the Respondents comes in black in white.

It is, therefore, humbly prayed that on acceptance of this appeal this Honourable Tribunal may be pleased to make appropriate orders/directives to the respondents for grant of arrears and seniority to appellant w.e.f date of application i.e. 22.08.2007 or alternatively, from the date of decision/ judgment of Hon'ble High Court, 28.06.2012.

Any other remedy to which the appellant is found fit in law, justice and equity may also be awarded.


Appellant

Through.

 
Rehman Ullah Shah & Ibrahim Shah
MA, LLM
Advocates

Ibn e Abdullah Law Associates
11 Azam Tower University Road, Peshawar
Phone & Fax # 091- 570 2021
www.ibneabdullah.com

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

GUL RASOOL KHAN S/O ABDUL TAWAB KHAN

APPELLANT

VERSUS

D E O (MALE) DISTT BUNER AND OTHERS

RESPONDENTS

AFFIDAVIT

I, Advocate Ibrahim Shah on behalf of my client and as per information received from client, do hereby solemnly affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Court.




Deponent

Ibrahim Shah

Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

Service Appeal No. _____/2014

GUL RASOOL KHAN S/O ABDUL TAWAB KHAN

APPELLANT

VERSUS

D E O (MALE) DISTT BUNER AND OTHERS

RESPONDENTS

MEMO OF ADDRESSES

APPELLANT:

GUL RASOOL KHAN S/O ABDUL TAWAB KHAN
DM, GHS, BAGH, DISTRICT BUNER

RESPONDENTS:

1. DISTRICT EDUCATION OFFICER (MALE) BUNER
2. DISTRICT COORDINATION OFFICER, BUNER
3. DIRECTOR (SCHOOL & LITERACY) KHYBER PAKHTUNKHWA, PESHAWAR
4. SECRETARY FINANCE, GOVT OF KHYBER PAKHTUNKHWA, PESHAWAR

Appellant

Through:

Advocates

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE DISTRICT BUNER

OFFICE ORDER

In compliance with the Judgments of the Honourable Peshawar High Court, Darul Qaza Mingora Bench. (Swat) on Writ Petition No.2288/2011 , and Writ Petition No,159,/2011 dated 28/6/2012, and as verbally directed by the Honourable Supreme Court of Pakistan, Peshawar Bench dated 19/6/2013. The following petitioners are hereby appointed as DM, against vacant posts in BPS-15 (8500-700-29500) plus usual allowances as admissible to them on regular basis under the rules in the schools noted against their names, from the date of taking over charge in the interest of public service with given terms and conditions at the end in the best interest of public service.

S.No	Name	School where Posted	Remarks
1	Gul Rasool Khan,	GHS Bagh	Vacant Post
2	Sherin Zada	GHS Nogram	-----do-----

Terms and Conditions:-

1. They would be on probation period for one year extendible for another one year under the rules, policy.
2. Their services are liable to termination on one month's notice from either side. In case of resignation without notice their one -month pay/allowances shall be forfeited to the Government.
3. They should join their posts within 15 days of the issuance of this notification. In case of failure to join their post within 15 days of the issuance of this notification, their appointment shall stand automatically cancelled and no subsequent appeal etc shall be entertained.
4. They will not claim the financial benefits/arrears, for the period, for which they have not served.
5. They are required to produce health and age certificate from the concerned Medical Superintendent before taking over charge.
6. The Principals / Head Masters, concerned may not hand over the charge to the appointee, if there is no vacant post in the school.
7. They will be governed by such rules and regulations as may be issued from time to time by the Govt.:
8. Their services can be terminated at any time, in case their performance is found unsatisfactory during probationary period. In case of misconduct, they shall be preceded under the rules framed from time to time.
9. They are directed to furnish copies of all sort of certificates/degree/diplomas etc along with their original receipt and photocopies of testimonials pertaining to the verification fee of concerned examination bodies (Board/universities etc) to the Executive District Officer Elementary & Secondary Education Buner. If any certificate/ degree / domicile etc of any candidate found fake or bogus in verification process they shall be terminated without further notice.
10. The Appointing Authority(DEO) shall arrange verification of all the certificates / degrees (Academic / Professional) etc of the appointee and will issue the clearance certificate of each appointee to D.A.O Buner for the release of pay, further more the Drawing and Disbursing Officer will not draw their salaries till the completion of verification process.

ATTESTED
A. S. Khan

9

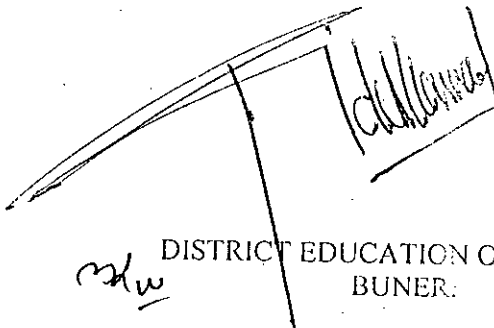
11. The Principals/Head Masters concerned would furnish a certificate to the effect that the candidate has joined the post or otherwise after 15 days of the issuance of his posting orders.
12. No TA/ DA will be allowed to the appointee for joining their duty.
13. Charge report should be submitted to all concerned.

(FIDA MUHAMMAD)
DISTRICT EDUCATION OFFICER MALE
BUNER.

Endst; No. 155871-94 File No.1 Estab; Male Secy; Dated 20/06 /2013

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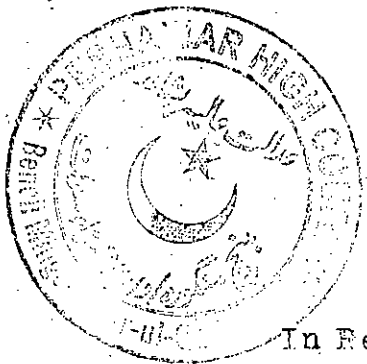
1. Honourable Register Supreme Court of Pakistan at registry Branch Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar High Court Peshawar.
3. Additional Registrar Darul; Qaza Mingora Bench Swat.
4. Additional Advocate General Darul Qaza Mingora Bench Swat.
5. PS to Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. PS to Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. District Accounts Officer Buner.
- ✓ 8. Officials Concerned.


DISTRICT EDUCATION OFFICER MALE
BUNER.

Azhar App;/D

ATTESTED


BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.



JJB

In Re: W.P.NO: _____/2011

Gul Rasool Khan son of Abdul Tawab Khan

R/O village Mangar Distt: Buner

.....PETITIONER.

Versus

1. Executive District Officer elementary and Secondary education Buner.

2. District Co-ordination Officer, Buner

3. Noor Rahim son of Said Rahim R/O village Kalpani Distt: Buner

.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN AGAINST THE ORDER DATED 24.2.2011 ENDSIT NO: 8529-37 WHEREBY THE RESPONDENT NO.1 MADE ILLEGAL APPOINTMENT.

Respectfully Sheweth:

ATTESTED

A. Shah

1. That the petitioner applied for the posts of D.M, advertised by the E.D.C.

2. That after scrutinizing the documents of all the applicants, the E.D.O E&S education Distt: Buner issued a tentative merit list of all

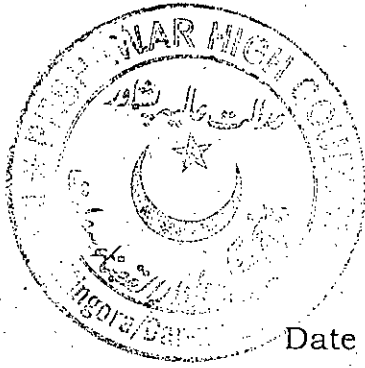
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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, MINGORA
BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No.2288/2011.

JUDGMENT



Date of hearing: 28.6.2012.

Appellant-Petitioner (Gul Rasool Khan)

by Mr. Mushtaq Ahmad Advocate.

Respondent (The EDO & others)

by DAG.

KHALID MAHMOOD, J.- For reasons recorded in the detailed judgment in writ petition No.2093 of 2007, titled "Khaista Rehman Vs: E.D.E, etc", this writ petition is allowed in terms of the judgment.

Announced
Dt: 28.6.2012.

~~Signature~~
JUDGE

Certified to be true copy

~~Signature~~
JUDGE

07/26
20/07/12

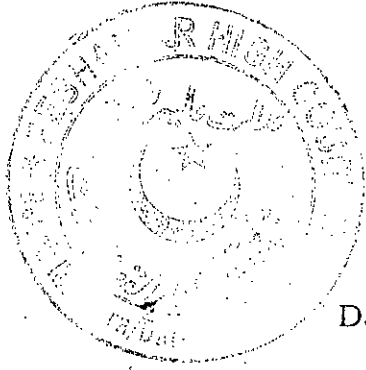
~~Signature~~
04/7/12

ATTESTED
A. Shah

(12)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No.2093/2007.



JUDGMENT

Date of hearing: 28.6.2012.

Appellant-Petitioners (Khaista Rehman & others)

by Mr. Khalid Rehman Advocate.

Respondent (EDO & others) by

Messrs Akhtar Mumtaz Khan Advocate & DAG.

KHALID MAHMOOD, J.- This judgment shall dispose of writ petitions No.2093, 1896 of 2007, 294 of 2008, 3402 of 2009, 3620 & 4378 of 2010, 2288 & 159 of 2011, as same question of law is involved in all these petitions.

2. The brief facts of the case are that in response to advertisement for different posts of teachers in the Education Department, petitioners applied for the same. After conducting the test and interview for the said posts, the petitioners were ignored in the matter of appointment and the appointment orders dated 22.8.2007 etc., issued by the respondents department are illegal, without lawful authority and of no legal effect. According to petitioners, they were not invited for interview, rather vide impugned order dated 22.8.2007, appointment of respondents No.5 to 13 was made.

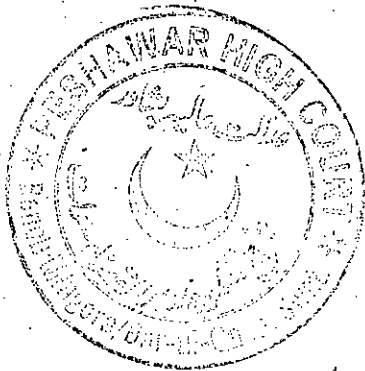
ATTESTED

A. Shukh

Petitioners have prayed for directing the respondents concerned to appoint the petitioners being trained and qualified for the said posts.

3. On 23.02.2012, during course of hearing, this Court come to the conclusion that all the certificates produced by the petitioners with regard to their professional qualification should be examined by Secretary Education, the Province of Sindh as to whether the same are genuine and have been issued by the concerned Institution and also to verify that the certificates produced by the petitioners are equivalent to Drawing Master. The petitioners were also directed to submit their original certificates with the Additional Registrar of this Court within a week time for sending for the above-said purpose. Prior to that comments and rejoinder were filed by the parties concerned.

4. Counsel for petitioners argued that impugned order issued by respondent No.1/ department is against law, without jurisdiction and of no legal effect; that the petitioners were trained drawing masters; that respondent concerned had totally ignored the petitioners while making the impugned order of appointment in spite of the fact that they were placed at high pedestal of merit and qualified for the appointment.



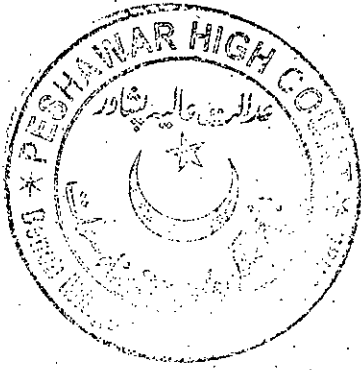
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ATTESTED
A. Shadi

On the other hand, it was argued on behalf of respondents that all the appointments were made in accordance with law and policy of the Government governing the subject.

5. With the valuable assistance of the counsel for the parties, the record perused.

6. The main grievances of all the petitioners in the present case that all the petitioners had submitted their requisite qualification along with certificate of Drawing Master before the respondent for their appointment. After test and interview, the merit list was prepared by the respondent concerned wherein the petitioners were declared higher in merit but later on instead of appointment of petitioners, the other candidates were appointed on the ground that the Drawing Master certificate obtained by the petitioners from Institutions situated in Jamshoru and Karachi are not equivalent to the certificate which was prerequisite for the post of Drawing Master. Counsel for the petitioners referred to the recruitment policy. He also referred to the advertisement published on 11.02.2007 in which the required qualification was F.A/F.Sc. with certificate of Drawing Master from any recognized institution. According to the recruitment policy as well as said publication petitioners on the patch-



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ATTESTED
[Handwritten signature]

wise criteria had passed their examined on 31.5.1997. In the first merit list displayed by the respondents, the petitioners had qualified and stood first in the merit list. The respondents on the pretext that the certificate of Drawing Master is not obtained from the recognized institution, who were ignored in the said appointment and the case of the petitioners remained pending after verification of the Drawing Master certificate. Thereafter, the concerned institution wherefrom the petitioners had obtained the D.M. certificate were asked for the verification of the said certificate. This Court too, had directed the concerned institution for the verification of the certificate.



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7. In the similar nature case wherein the D.M. certificate was obtained from Jamshoru verified in a case by Abbottabad Bench of this Court, in WP No. 66 of 2009 titled "Muhammad Banaris vs. Govt. of Khyber Pakhtunkhwa" wherein it is held that the D.M. certificate by Jamshoru is competent and the recognized one.

8. In the present case, the D.M. certificate qualify from all corners as a genuine certificate issued by the recognized institution, which was the requirement of the recruitment policy as mentioned above. We have gone through the merit list which clearly indicates that the

ATTESTED

[Handwritten signature]

petitioners have been deprived on lame excuse on the ground of delaying tactics regarding the verification of D.M. certificate obtained by the petitioners. It was also pointed out that respondent in subsequent appointment had also appointed other candidates who had obtained DM certificates from the same Institutions whereas, petitioners has been deprived though they have also qualified from the same Institutions, hence act of respondents is discriminatory and is utter violation of Article 25 of the Constitution. Instead of petitioners who were at better pedestal in the merit list, the other candidates who were below at the merit list as compared to the petitioners have been appointed which apparently shows the mala fide on the part of respondents. After thrashing the entire record, we have come to the conclusion that petitioners have wrongly been deprived for appointment against the post of D.M. which requires interference by this Court.

In the light above discussions, facts and circumstances of the case, all the writ petitions are allowed and respondents are directed to appoint the petitioners against the said post positively.



Certified to be true copy

34/7/12

S.No. Announced 3906
 Name of Applicant Dr 28.6.2012. Civil Rasal
 Date of Presentation of Application 23.7.12
 Date of Completion of Proceedings 24.7.12
 No. of Copies 7 P
14/12

~~_____~~
 JUDGE
~~_____~~
 JUDGE

ATTESTED
A. Shukh

Office
 20/07/12

(Amman C) (17)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE SARMAJ JALAL OSMANY :

Civil Petitions No. 456-P/12, 7-P to 11-P/2013 and
19-P & 20-P of 2013

Against the judgment dated 28.6.2012 passed by Peshawar
High Court, Mingora Bench (Dar-ul-Qaza), Swat in W.Ps
No.2093 of 2007, 3402/2009, 3620/2011, 4378/2010,
159/2011, 2288/2011, 1896/2007 and 294/2008.

Executive District Officer, Schools & Literacy District Dir Lower, etc ... Petitioners

VERSUS

Khasista Rehman, etc (in CP 456-P/2012)
Lazim Khan, etc (in CP 456-P/2012)
Mst. Laida Tabassum, etc (in CP 456-P/2012)
Mst. Shaguffa Bibi, etc (in CP 456-P/2012)
Shireenzada, etc (in CP 456-P/2012)
Gul Rasool Khan, etc (in CP 456-P/2012)
Mst. Nageena, etc (in CP 456-P/2012)
Ghulam Hazrat (in CP 456-P/2012)

... Respondents

For the Petitioners: Ms. Naeem Khan, AAC, KPK
Ms. Naghmana Sardar, DEO

For the Respondents: (in CPs 8-9 & 19-20) Mr. Esa Khan, ASC

Others: N.R.

Date of hearing: 21.06.2013

ATTESTED
A. Shah

ORDER

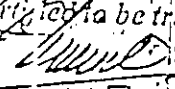
Nasir-ul-Mulk, J.- These petitions for leave to appeal have been filed by the Executive District Officer, Schools of three Districts, Dir Lower, Dir Upper and District Banner against the judgment of the Peshawar High Court, Mingora Bench delivered in writ petition No.2093 of 2007 whereby a number of similar writ petitions were disposed of. The respondents had filed writ petitions challenging the decision of the petitioners for appointment to the post of Drawing Master, who though had

ATTESTED
[Signature]
Registrar,
Peshawar.

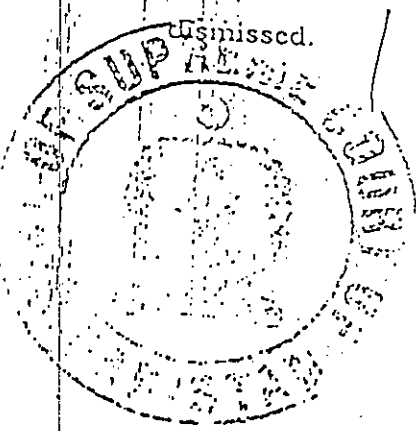
during selection attained the required merits but their appointments were declined on the ground that they had obtained the requisite qualifications from the institutions situated in Jamshoro and Karachi. The petitions were accepted by the High Court on the ground that distinction could not be drawn between the award of degrees or services by the institutions of Jamshoro and Karachi and that of this Province. Thus on the ground of discrimination the writ petitions of respondents were allowed and the petitioners were directed to appoint the respondents to the said posts. We find no merits in these petitions as apparently no reasonable classification exists between the qualifications obtained from the said institutions and from those in Province of K.P.K since the respondents selection was made way back in the year 2007 and six years have passed, we had therefore directed the petitioners to issue appointment orders of the respondents. Today the said order have been produced before us. The respondents, except for one Lazim Khan, in Civil Petition No.07-P of 2013 has been duly appointed. Learned Law Officer states that said the respondent shall also be appointed in due course after his papers are found in order. These petitions have no merits and therefore

Dismissed.


Sd/- Nasir-ud-Mulk J.
 Sd/- Sarmad Talal Osman J.

Certified to be true copy


Deputy Registrar, 07/3
 Supreme Court of Pakistan
 Peshawar.

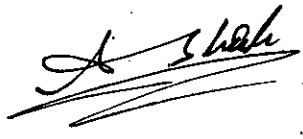


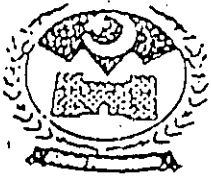
Peshawar, the
 21st of June, 2013
 arshed/



Not approved for reporting

ATTESTED





OFFICE OF THE DISTRICT EDUCATION OFFICER MALE DIR UPPER
PH NO.0944-881400 FAX-0944-880411 Email .demisdirupper@gmail.com.

OFFICE ORDER/REVISED.

In continuation of this office appointment order of (Male) Drawing Masters issued vide this office
Endst: No.2131-2141/F.No.12(A)/DEO (M)/SEB Dated 20/6/2013 and Endst:No. 3026-34/F.No.12(A)/U (M)SCU Dated
DR/7/2013..

In the light of the judgment declared on 22/10/2013, by the Honourable Peshawar High Court
Peshawar Review P.No.7-M/2012 in W.P.No.3620-2010 and Review P.No.8-M/2012 in W.P.No.378/2010. The
revised appointment order of the following (Male) Drawing Masters in BPS, No.09 Rs, (3820-230-1/720) plus usual
allowances with effect from 03/02/2009, (without any financial back benefits) up to 28/6/2012 according to the
court decision dated 28/6/2012, is hereby ordered in the best interest of public service and their seniority will be
considered with effect from 03/02/2009.

S#	Name of Officials	Father's Name	Name of School where adjusted	Remarks
01	Mr. Gul Badshah	Khaista Bacha	GMS, Sundrai	A. Vacant post
02	Mr. Muhammad Iqbal	Fazal Hadi Khan	GMS, Kass Shingara	-do-
03	Mr. Anwar Said	Sar Zamin	GMS, Doon Bala	-do-
04	Mr. Taj Muhammad Khan	Darvesh Khan	GMS, Narkon	-do-
05	Mr. Qadim Khan	Afzal Khan	GMS, Hayagay Gh:	-do-
06	Mr. Misbahur Rahman	Muhammad Rahman	GMS, Bisho	-do-
07	Mr. Muhammad Anwar	Zar Zamin Khan	GMS, Roghano	-do-
08	Mr. Lazim Khan	Mian Gul Zamin	GMS, Shaltalo	-do-

TERMS AND CONDITIONS.

01. The appointees will be on probation for a period of one year in terms of Rule-15(1) of NWFP Civil Servants (Appointment promotion and transfer) Rules 1989.
02. The Certificates/Degrees of the appointees will be verified from the concerned institutions. No pay etc is allowed before verification of certificates/Degrees.
03. Their academic, professional and domicile certificates will be verified on their own expenses from the institutions concerned, if the documents are found fake and bogus, their services will be terminated and proper FIR will be lodged against the accused in the Anti-Corruption Department.
04. Their Services will be considered on regular basis.
05. The appointees will provide Health and age certificates from the concerned Medical Superintendent.
06. Their age should not be less than 18 years and above 35 years.
07. The appointees will be governed by such rules and regulations/policies as prescribed by the Government from time to time.
08. If the appointees fail to take over charge with in fifteen days after issuance of this order, Their appointments may be deemed as automatically cancelled.
09. Charge report should be submitted to all concerned.
10. No TA/DA is allowed.
11. The appointees will strictly abide by the terms and conditions laid down therein.

ATTACHED

A. Shah

DISTRICT EDUCATION OFFICER
MALE DIR UPPER. 16/12/13

Endst: No. 5694-99 / F.No.12(A)/DEO(M)/SEB Dated Dir (U) the: 16-12 /2013.

Copy forwarded to:-

01. Registrar Supreme Court of Pakistan Peshawar Bench.
02. Registrar High Court Bench Darul Qaza Swat.
03. PS to Secretary Elementary & Secondary Education Department K.P.K. Peshawar.
04. District Accounts Officer Dir Upper.
05. Accountant Middle School (Male) Local Office.
06. Headmaster's concerned.
07. AP EMIS local office.
08. Officials concerned.

DISTRICT EDUCATION OFFICER
MALE DIR UPPER. 16/12/13

خدمت جناب ڈسٹرکٹ ایکویشن آفس صاحب (برائے صلح یونٹ)

عنوان: درخواست برائے طابقتی Arrears اینڈ Seniority

جناب عالی!

سائل حسب ذیل عرض رساں ہے

1۔ یہ کہ سائل نے برائے تقرری DM Post کیلئے کاغذات جمع کئے تھے

لیکن کئی وجوہات کی بنا پر سائل کو پستادور یا کئی کورٹ میں پورہ (دارالقضا)

سے مدد کو وہ پوسٹ کیلئے رجوع کرنا پڑا

2۔ سائل لاڈل نمبر 2288 عدالت حضور کے مورخ $28 \frac{06}{2012}$ کو فیصلہ کر دیا

2011

لیکن حکم کے سیرے تقرری میں کی جبکہ عدالت حضور کے سیرے تقرری کے احکامات جاری

کئے تھے۔ لیکن فی حرم ر کھا گیا

3۔ بحکم دارالقضا کے فیصلے کینڈا کے سیریم کورٹ چلی گئی۔ لیکن عدالت میں عدالت

عالمیہ کا فیصلہ برقرار رکھا۔ اور سائل کا مورخ $20 \frac{06}{2013}$ کو بطور DM

تعمیرات کینڈا کیا جبکہ سائل $28 \frac{06}{12}$ سے طلب گزار ہے

لہذا آپ صاحبان کی طرف سے عرض ہے کہ سائل کو مدد کو

تاریخ لیں $28 \frac{06}{2012}$ سے یا ابتدائی تاریخ درخواست سے Seniority + Arrear

یے جانے کا حکم صادر فرمایا جائے

سید نواز شہبازی

Gul Ra

مل رسول خاں

کوئٹہ ہائی سکول ماخ

صلح یونٹ

26/9/13

ATTESTED

A. Akbar



Annex-F (2)

GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL, MYROR PAKHTUNKHTWA
DISTRICT
PAY ROLL SYSTEM

Paid: PAYMENT ADVICE for 2013
NO 070 - Head Master G.H.S Hogram B
Schools

Name: SHERIN ZADA
Designation: DRAWING MASTER
CNIC No: 1510172244181
SPF: Interest Applied

HTL
HP #
HJ #

RPS 2013 Active Temporary

DEPTT CODE 007070

0001-Basic Pay	3,500.00
1000-House Rent Allowance	1,566.00
1210-Convey Allowance 200%	2,720.00
1300-Medical Allowance	1,000.00
1511-Dumper Allow 20% 11-15	1,000.00
1571-Adhoc Allowance 2011	785.00
1573-Adhoc Allowance 2011	2,819.00
1113-Adhoc Relief Allow (20%)	1,700.00
1143-10% Adhoc Relief All-2013	1,275.00
Gratuity and Allowances	21,154.00
Total	39,429.00
PF Balance 9,826.00	
3501-Beneficial Fund	1,520.00
3517-Add'l Group Insurance	150.00
3604-Group Insurance	19.00
3990-2mp. Edu. Fund KPK	115.00
	100.00
Total Deductions	1,939.00

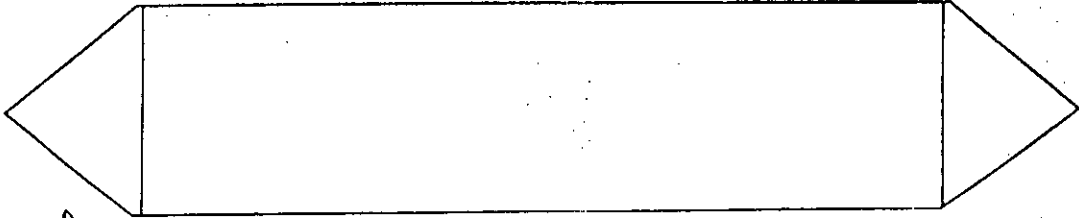
NET AMOUNT PAYABLE 19,225.00

QUALIFYING SERVICE
10 Yrs 04 Months 01 Days

D.O.B 10/07/1974
L.F. QUOTA
7100011
MAMUDAT, BUKER.

ATTESTED
A. Shah

Before Hon'ble Khyber Pakhtunkhwa Services Tribunal
Peshawar. بعدالت



Appellant 2014 بنجاب

DEO (M) Buner بنام Gul Rasool Ishaq
& other.

موزع

مقدمہ

دعویٰ

جرم

Service Appeal

باعث تحریر آنکے

Adv ~~Rehman Ullah Shah~~ ~~Horabina Shah~~ ~~Atiq ur Rehman~~ کیلئے Peshawar
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلق
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہ ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 16/01/14 ماہ جنوری 2014

واہ الع

Gul Rasool
بمقام

کے لئے منظور ہے۔

Atiq

Attested
&
Accepted

Rehman

Attested
&
Accepted

Attested
&
Accepted